

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORIGINAL JURISDICTION)

Tuesday, the 28th day of November, 2017

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

COMP.APPLN.NO.93 to 98 of 2017

IN

COMP.PETN.NO.17 OF 2004

In the matter of the Companies Act, 1956
and
In the matter of M/s.SIV Industries Ltd.,
(In liquidation)

C.P.No.17/2004:

M/s.Board for Industrial and Financial
Reconstruction, (BIFR)
Jawahar Vypar Bhavan,
1, Tolstoy Marg, New Delhi-110 001. .. Petitioner

Vs.

1. Managing Director
M/s.SIV Industries Ltd.,
Vinoose Towers,
1078, Avinashi Road,
P.B.No.3780,Coimbatore - 641 018

2. Secretary
Industries Department
Govt.of Tamil Nadu,Chennai

3 Bank of Baroda,
C 26 G- Block
Bandara Kurla Complex
Mumbai - 400 051

4 Chairman & Managing Director
Indian Bank,31, Rajaji Salai,
Chennai - 600 001

5 Chairman and Managing Director
Bank of India,Express Tower, Nariman Point
Mumbai- 400 021

6 Chairman and Managing Director
State Bank of India,
Central Office, Madam Cama Road,
Mumbai

7 Chairman and Managing Director,
Canara Bank, Credit Wing,
112, J.C.Road, Banagalore - 560 002

8 Bharatiya Viscose
Thozhilalar Sangam
A 21 Rayan Nagar
Sirumugai 641 302

9 Deutsche Bank,
Hazarimal Somani Marg,
Fort, Mumbai - 400 021

10. Citi Bank
Sakhar Bhavan
230, Backbay Reclamation
Mumbai - 400 021

11. Standard Chartered Grindleys Bank,
New Excelsor Building
A.K.Naik Marg, Mumbai - 400 001

12 Chairman and Managing Director
Industrial Development Bank of India,
IDBI Towers, Coffess Parade, Mumbai

13 Chairman and Managing Director
ICICI Bank Limited
ICICI Towers, worth Tower (East Wing)
Bandra- Kurla Complex, Mumbai

14 General Manager
Life Insurance Corporation
Head Office, Yogakshema,
Jeevan Bima Marg, Mumbai 400 020

15 General Manager,
General Insurance Company
Industrial Assurance Building
Church Gate, Mumbai - 400 001

16 General Manager
Unit Trust of India
13, Sir Vithaldas Thackersay Marg,
Mumbai - 400020

17 General Manager,
National Insurance Company
36 Nethaji Subash Marg,
Dargaganj, Delhi - 110 002

18 General Manager
Oriental Insurance Company
Oriental House, a-25/27, Asaf Ali Road,
Delhi - 110 002

19 General Manager,
United India Insurance Company,
27, whites Road, Chennai - 600 014

20 General Manager
National India Insurance Co.,
87 Mahatma Gandhi Road,
Mumbai - 400 023

21 Army Group Insurance Fund
AGI Bhavan, Rao Tula Ram marg,
P.B.14, P.O.Vasant Vihar
New Delhi,

22 LIC Mutual Fund,
Mittal Court, B-Wing, 2nd Floor,
224, Nariman Point,
Mumbai - 400 021

23 G.I.Mutual Fund
Mittal Court- B Wing - 2nd Floor,
224, Nariman Point,
Mumbai - 400 021

24 Bank of India Mutual Fund,
Bank of India,
A/c. BOI Mutual Fund,
24th Cross, Stock Exchange Buildings,
Dalal Street,
Mumbai - 400 023

25 Chairman and Managing Director
Indian Renewable Energy Development Agency Limited
Core - 4 A, East Court, 1st Floor,
India Habitat Centre Complex,
Lodhi Road, New Delhi - 110 003

26 Chairman and Managing Director
HDFC Bank, Mumbai Ramen House,
169 Backbay Reclamation,
Mumbai - 400 020

27. Mohinder Puri and Co.,
on behalf of Bank of Austria and
Citi Bank International
IAD, Vandhana, 11, Tolstoy Marg,
New Delhi.

28 Bank of Austria,
Aktiengesellschaft,
A-10 Vienna, Austria.

29 President
South India Viscose National
Workers Union (INTUC)
Sathy Road, Sirumugai

30 President
Kovai Erode Mavatta Dravida
Panchalai Thozhilalar and
Oozhiyargal Munnetra Sangam
(LPF) Sathy Road, Sirumugai

31. President
Anna Thozhilalar Sangam (ATP)
Sathy Road, Sirumugai

32 The President
Viscose Workers and Staff Union
Sathy Road, Sirumugai

33. President
Kovai Periyar Mavatta Dravida Panchalai
Thozhilalar Munnetra Sangam
(MLF), Sathy Road, Sirumugai

34 President
Kovai Jilla Mill Thozhilalar Sangam AITUC
Sathy Road, Sirumugai

35 President
Kovai Jilla Mill Thozhilalar Sangam (HMS)
Sathy Road, Sirumugai

36 President
Bharathiya Viscose Mazdoor Sangam (BMS)
Sathy Road, Sirumugai

37 President
South India Viscose Company Workers Union (TNTUC/NLO)
Sathy Road, Sirumugai

38 President
South India Viscose Company Workers Union (CITU)
Sathy Road, Sirumugai

39 President
South India Viscose Company Workers Union (JDLF)
Sathy Road, Sirumugai

40 THE Regional Director
 ESIC Regional Office
 ESI Corporation
 Rajindra Bhavan, Rajindra Place, New Delhi - 110 006

41 Central Provident Fund Commissioner
 HUDCO Vishala,
 14 Bhimaji Cama Place, R.K.PURAM
 New Delhi - 110 006

42 Infrastructure Leasing and Financial Services
 2nd Floor, Sidhur Pantheaon Plaza,
 346 Pantheon Road, Egmore
 Chennai - 600 008

43 Tata Mutual Fund,
 C/o. South India Viscose Industries Ltd.,
 Viscose Towers, 1078, Avanashi Road, P.B.No.3780
 Coimbatore - 641 018

44 SAHARA
 C/o. South India Viscose Industries Ltd.
 Viscose Towers, 1078 Avanashi Road, P.B.No. 3780
 Coimbatore - 641 018

45 WIPRO Finance
 C/o. South India Viscose Industries Ltd.,
 Viscose Towers, 1078 Avanashi Road,
 P.B.NO.3780, Coimbatore 641 018

46. DCW Ltd.,
 Nirmal 3rd Floor
 Nariman Point
 Mumbai 400 021

47 Dai-ICHi Karkaria Ltd.
 Liberty Building
 Sir Vithaldas Thackersay Marg,
 Mumbai - 400 020

...Respondents

C.A.Nos.93 & 94 of 2017

A.V.Balasubramaniam
 No.2/106, Alangombu (PO)
 (via) Sirumugai
 Mettupalayam (TK)
 Coimbatore District 641 302

.. Applicant in
 C.A.Nos.93 & 94/2017

Vs

1 The Official Liquidator,
 High Court, Madras

As the Liquidator of
M/s.SIV Industries Limited
(in liquidation).

2 M.Palanisamy
S/o. Marappa Gounder
No. 107-A Sengupta Street
Ram Kumar
Coimbatore - 641 009

...Respondents in
C.A.Nos.93 & 94/2017

Comp.A.No.93/2017:

The Company Applicant praying this court to set aside the Lease Deed dated 19.6.2009 executed by the 1st respondent in favour of the 2nd respondent and duly registered as Document No. 2915 of 2009 at the office of the Sub Registrar, Puliampatti, Coimbatore District, in so far as the same relates to the applicant's lands, comprised in

<u>S.F.No</u>	<u>Extent</u>
S.No.725/1B	2.68
S.No.749	0.44
S.No. 750/2	0.38
S.No.916	0.63
S.No.725/1B	5.37
S.No.749	0.88
S.No.750/2	0.76
S.NO.916	1.26
S.NO.508/2	1.24
S.No.550/2	1.40
S.Nos.346/2	0.72
S.No.347/3	0.09
S.No.347/6B	0.99
S.No.338/4A	3.01
S.No.566/1B	2.32
S.No.347/5	2.20
S.No.758/1	2.25
S.No.725/1B	2.68
S.No.749	0.44

S.No.750/2	0.38
S.No.916	0.63
S.No.714	3.63
S.No.758/1	1.12
S.No.684/1A	0.68

of Irumbarai Village, Karamadai Panchayat Union, Avanashi Taluk, (presently Mettupalayam Taluk), Coimbatore District, pending disposal of the main Application to set aside the Lease Deed in respect of the above properties.

Comp.A.No.94/2017:

The Company Applicant praying this court

a) to pass an order of interim injunction restraining the respondents from interfering with the applicant's peaceful possession and enjoyment of the lands measuring....

<u>S.F.No</u>	<u>Extent</u>
S.No.725/1B	2.68
S.No.749	0.44
S.No. 750/2	0.38
S.No.916	0.63
S.No.725/1B	5.37
S.No.749	0.88
S.No.750/2	0.76
S.NO.916	1.26
S.NO.508/2	1.24
S.No.550/2	1.40
S.Nos.346/2	0.72
S.No.347/3	0.09
S.No.347/6B	0.99
S.No.338/4A	3.01
S.No.566/1B	2.32
S.No.347/5	2.20
S.No.758/1	2.25

S.No.725/1B	2.68
S.No.749	0.44
S.No.750/2	0.38
S.No.916	0.63
S.No.714	3.63
S.No.758/1	1.12
S.No.684/1A	0.68

of Irumbarai Village, Karamadai Panchayat Union, Avanashi Taluk, (presently Mettupalayam Taluk), Coimbatore District, pending disposal of the main Application to set aside the Lease Deed in respect of the above properties.

C.A.Nos.95 & 96 of 2017

1.A.V.Balasubramaniam
No.2/106, Alangombu (PO)
(via) Sirumugai
Mettupalayam (TK)
Coimbatore District 641 302

2. Pandiraj.A
187 Dr.Radhakrishnan Road
Tatabad
Coimbatore 641 012

.. Applicants in
C.A.Nos.95 & 96/2017

Vs

1 The Official Liquidator,
High Court, Madras
As the Liquidator of
M/s.SIV Industries Limited
(in liquidation).

2 M.Palanisamy
S/o. Marappa Gounder
No. 107-A Sengupta Street
Ram Kumar, Coimbatore - 641 009

...Respondents in
C.A.Nos.95 & 96/2017

Comp.A.No.95 of 2017:

The Company Applicant praying this court to set aside the Lease Deed dated 19.6.2009 executed by the 1st respondent in favour of the 2nd respondent and duly registered as Document No.2915 of 2009 at the office of the Sub Registrar, Puliampatti, Coimbatore District, in so far

as the same relates to the applicant's lands, comprised in

<u>S.F.No.</u>	<u>Extent</u>
681	2.93 Acres
714	7.26 Acres

of Irumbarai Village, Karamadai Panchayat Union, Avanashi Taluk, (presently Mettupalayam Taluk), Coimbatore District, pending disposal of the main Application to set aside the Lease Deed in respect of the above properties.

Comp.A.96 of 2017:

The Company Applicant praying this Court to pass an order of interim injunction restraining the respondents from interfering with the 2nd applicant's peaceful possession and enjoyment of the land measuring 7.26 acres in S.F.No. 714 and 2.93 acres in S.F.No.681 of Irumbarai Village, Irumbarai Panchayat Union, Avanashi Taluk, (Presently Mettupalayam Taluk) Coimbatore District, Pending disposal of the main Application to set aside the Lease Deed in respect of the above properties.

C.A.Nos.97 of 2017

1.A.V.Balasubramaniam
No.2/106, Alangombu (PO)
(via) Sirumugai
Mettupalayam (TK)
Coimbatore District 641 302

2. V.Manonmani
187 Dr.Radhakrishnan Road
Tatabad, Coimbatore 641 012

.. Applicants

Vs

1 The Official Liquidator,
High Court, Madras
As the Liquidator of
M/s.SIV Industries Limited
(in liquidation).

2 M.Palanisamy
S/o. Marappa Gounder
No. 107-A Sengupta Street

Ram Kumar
Coimbatore - 641 009

...Respondents

The Company Applicant praying this court to pass an order of interim injunction restraining the respondents from interfering with the 2nd applicant's peaceful possession and enjoyment of the land measuring 2.56 acres in S.F.No. 345/2 of Irumbarai Village, Irumbarai Panchayat Union, Avanashi Taluk, (Presently Mettupalayam Taluk) Coimbatore District, Pending disposal of the main Application to set aside the Lease Deed in respect of the above properties.

C.A.Nos.98 of 2017

1.A.V.Balasubramaniam
No.2/106, Alangombu (PO)
(via) Sirumugai
Mettupalayam (TK)
Coimbatore District 641 302

2. V.Manonmani
187 Dr.Radhakrishnan Road
Tatabad
Coimbatore 641 012

.. Applicants

Vs

1 The Official Liquidator,
High Court, Madras
As the Liquidator of
M/s.SIV Industries Limited
(in liquidation).

2 M.Palanisamy
S/o. Marappa Gounder
No. 107-A Sengupta Street
Ram Kumar
Coimbatore - 641 009

...Respondents

The Company Applicant praying this court to set aside the Lease Deed dated 19.6.2009 executed by the 1st respondent in favour of the 2nd respondent and duly registered as Document No.2915 of 2009 at the office of the Sub Registrar, Puliampatti, Coimbatore District, in so far as the same relates to the applicant's lands, comprised in

<u>S.F.No.</u>	<u>Extent</u>
345/2	2.56

of Irumbarai village, Irumbarai Panchayat Union, Avanashi Taluk, (Presently Mettupalayam Taluk) Coimbatore District.

These Company Applications coming on this day before this court for hearing the court made the following order:-

"All these applications have been filed by the applicants claiming title to the properties which were the subject matter of the lease and thus the lease deed executed in their absence will have to be rescinded.

2.Despite service of notice and the name of the learned counsel appearing for the second respondent having been printed in the cause list, none appears for the second respondent.

3.Learned counsel appearing for applicants would submit that the lease has been executed with respect to the properties owned by them. The properties were originally

owned by the first applicant and thereafter sold in favour of the second applicant.

4.Learned Official Liquidator would submit that similar issue raised was rejected, against which, an appeal was filed in O.S.A.No.242 of 2016. The appellants were permitted to withdraw the appeal subject to the clarification issued.

5.At this stage, learned counsel for the applicants would submit that the same order passed by the Division Bench may be made applicable to the case of the applicants as well. In this connection, it is appropriate to place on record the order passed by the Division Bench in O.S.A.No.242 of 2016 dated 30.11.2016.

After some arguments, the learned counsel for the appellants does not press the appeal but seeks a clarification as to the effect of the lease executed by the official liquidator and the observations in the impugned order qua possession of the second respondent.

2.Insofar as the first aspect is concerned, it is quite clear that those lands were not transferred in pursuance of the auction sale, as there were found to be some impediments arising from the title not being perfected in favour of the company in liquidation. That being the

position, if the appellants seek to set forth a counter title, we see no reason why the grant of lease should come in the way of the appellants establishing their case.

3. Similarly, on the issue of possession, the findings in the impugned order, are arising from the payment of lease money by the second respondent to the Official Liquidator and the absence of title documents with the appellants. It is for the appellants to lead evidence in the suit to establish their claim.

The appeal is dismissed as withdrawn in the terms aforesaid.

6. In view of the submission made by the learned counsel appearing for the applicants, these applications stand disposed of, making it clear that the observation made by the Division Bench in the order stated supra shall be made applicable to the case of the applicants".

Sd/-M.M.S.J
28/11/2017

//CERTIFIED TO BE A TRUE COPY//
DATED THIS THE DAY OF 2017.

JJ 11/12/2017

COURT OFFICER.

From 25th September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decree in this format.